

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

GLORIA JENKINS

Plaintiff,

v.

GARRETT A. GOINS and
SOUTHERN PIPE & SUPPLY CO., LLC;

Defendants.

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No. _____

JURY DEMANDED

NOTICE OF REMOVAL

Defendants Garrett Goins and Southern Pipe & Supply Co., LLC (“Defendants”), by and through undersigned counsel of record, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and the Local Rules of this Court, hereby file this Notice of Removal and seek removal of this cause of action from the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis, to the United States District Court for the Western District of Tennessee, Western Division.

BACKGROUND

Plaintiff Gloria Jenkins (“Plaintiff”) filed this lawsuit in the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis, on January 18, 2022.¹ She alleges that, on January 29, 2021, the Plaintiff was involved in a motor vehicle accident as a result of an “80-pound box from Defendant Goins’ vehicle fell off his vehicle as he was driving.” (Compl. ¶ 8.) Plaintiff has brought a negligence, and negligence per se, causes of action against Defendants, which

¹ A copy of the underlying complaint is attached and incorporated into this Notice as **Exhibit A**. Any discussion of the allegations in the Complaint herein is simply a recitation of Plaintiff’s Complaint and should not be construed as admission of any such allegations on the part of Defendants.

Defendants deny any liability and/or negligence in this matter. (*see generally* Compl.). Plaintiff seeks damages in the amount over the requirement for diversity jurisdiction. (Compl. ¶ 37).

Defendant Southern Pipe & Supply Co., LLC was served by Plaintiffs on or about January 20, 2022.² Defendant Goins was made aware of the Plaintiffs lawsuit on or about January 20, 2022.³ Defendants now seek removal of this matter to this Court for adjudication.

LAW AND ARGUMENT

I. Defendants Have Satisfied All Procedural Requirements for Removal.

On January 18, 2022, Plaintiffs commenced the above-styled civil action in the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis, styled as *Gloria Jenkins. v. Garrett A. Goins and Southern Pipe & Supply Co., LLC*, docketed at No. CT-0161-22 (the “Civil Action”). This action is currently pending in Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis.

Defendants first received a copy of the lawsuit when served (*see* Ex. B). All process, filings, pleadings, and/or orders served on Defendants to date, and all items received by the State Court, are attached and incorporated herein, and constitute all filings made to date in the entire case.⁴

No previous application has been made for the relief requested herein.

Pursuant to 28 U.S.C. § 1446(d), Defendants will provide contemporaneous written notice to Plaintiffs, and Defendants will file the attached Notice of Filing of Notice of Removal with the Clerk of the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis.⁵

² A copy of the Returned Summons on Defendant Southern Pipe & Supply Co., LLC is attached and incorporated into this Notice as **Exhibit B**.

³ Defendant Goins has not been properly served with process for this matter, but has been made aware of the Plaintiff’s suit and received a copy of all relevant pleadings by co-defendant Southern Pipe & Supply Co. Inc.

⁴ A copy of the state court docket with all pleadings, process, motions, notices, and/or orders are attached and incorporated into this Notice as **Exhibit C**.

⁵ A copy of the Notice to the State Court is attached and incorporated into this Notice as **Exhibit D**.

II. Removal is Proper Because This Court Has Subject Matter Jurisdiction Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

This Court has subject matter jurisdiction under 28 U.S.C. § 1332 as this is a civil action where the amount in controversy exceeds \$75,000.00, exclusive of costs and interest, and is between citizens of different states.

A) Complete Diversity of Citizenship Exists Between the Plaintiff and Defendants

The parties are completely diverse. Plaintiff alleges she is a resident of Crittenden County, Arkansas (Compl. ¶ 1.) Conversely, Defendant Southern Pipe & Supply Co., LLC is not a Tennessee resident. Defendant Southern Pipe & Supply Co is, as alleged in the Complaint, a Delaware Limited Liability Company. (Id. ¶ 3.) Southern Pipe & Supply Co. has its principal place of business located in Meridian, Mississippi where it operates and coordinates its operations. Similarly, and counter to the allegations in Plaintiff's complaint, Defendant Goins is an adult citizen and resident of Mississippi, and at no time has Defendant Steinhardt ever been a resident of Tennessee. (Id. ¶ 2) (*See* Affidavit of Garrett Goins).⁶

B) Removal of this Action is Timely

Defendant received a copy of the Complaint of the Civil Action to be removed on January 20, 2022 with respect to Defendant Southern Pipe. (*See* Exs. B.) Defendant Goins received a copy of the Complaint of the Civil Action to be Removed on or about January 20. Defendants now seek This Notice of Removal timely as it is being filed within thirty (30) days of service. *See* 28 U.S.C. § 1446(b)(2)(B) ("Each Defendants shall have 30 days after receipt by or service on that Defendants of the initial pleading or summons . . . to file the notice of removal."). Further, Defendants have done nothing in the Civil Action in the State Court that would in any way affect this Court's removal and subject matter jurisdiction over this matter.

⁶ Affidavit of Garrett A. Goins attached and incorporated into this Notice as **Exhibit E**.

C) Venue is Proper

Venue of this removal action is proper pursuant to 28 U.S.C. § 1441(a) as this Court is the United States District Court for the district and division where the Civil Action is pending.

D) The Amount in Controversy Requirement is Satisfied

Plaintiffs allege damages in an amount of over \$100,000.00 which would be in excess of \$75,000.00 (*See* Compl. “Prayer for Relief”) “To ensure that diversity jurisdiction does not flood the federal courts with minor disputes, § 1332(a) requires that the matter in controversy in a diversity case exceed a specified amount, currently \$75,000.” *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 552 (2005). The matter is removable as the damages sought exceed the jurisdictional minimum.

E) Unanimity is Met

Lastly, unanimity is satisfied. “Under the rule of unanimity, ordinarily all defendants must join in a notice of removal or the case will be remanded.” *Bradley v. Md. Cas., Co.*, 382 F.2d 415, 419 (8th Cir. 1967). Plaintiffs have filed suit against Defendants who together seek removal of this matter. As such, unanimity is met.

WHEREFORE, PREMISES CONSIDERED, Defendants Goins and Southern Pipe & Supply Co. Solutions, LLC request that this Court now REMOVE this Civil Action from the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis, and that further proceedings now be conducted in the United States District Court for the Western District of Tennessee, Western Division, as provided for and consistent with the laws of the United States of America.

This the 18th day of February, 2022.

Respectfully submitted,
MCANGUS GOUDELOCK & COURIE, LLC

/s/ Tom Cassidy

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8795

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ATTORNEY FOR GARRETT A. GOINS and
SOUTHERN PIPE & SUPPLY COMPANY,
INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

Shalondra Pickford
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Attorney for Gloria S. Jenkins

This the 18th day of February, 2022.

/s/ Tom Cassidy

THOMAS P. CASSIDY, JR.